

# ANALYSIS OF ORIGINAL BILL

## Franchise Tax Board

Author: Mountjoy Analyst: Deborah Barrett Bill Number: AB 277

Related Bills: See Legislative History Telephone: 845-4301 Introduced Date: 02-09-05

Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Open Meetings/Authorizes State Bodies To Hold Closed Sessions Regarding Security/Delete Repeal Date Indefinitely

### SUMMARY

This bill would make permanent a provisions of the Bagley-Keene Open Meeting Act that allows state bodies to hold closed-door sessions when discussing security related issues.

This bill would also add language to provide an exception to the open meeting requirement for the Board of Administration of the California Public Employees' Retirement System. This provision would not impact the Franchise Tax Board (FTB) and is not discussed in this analysis.

### PURPOSE OF THE BILL

It appears the purpose of this bill is to prevent the compromise of security arrangements put in place by state bodies to address criminal or terrorist threats.

### EFFECTIVE/OPERATIVE DATE

This bill would be effective and operative on January 1, 2006.

### POSITION

Pending.

### ANALYSIS

#### FEDERAL/STATE LAW

Under the Bagley-Keene Open Meeting Act, existing state law requires that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body, with specified exceptions for authorized closed sessions.

In addition to the exceptions that are applicable to the state bodies specifically identified in the Act, other exceptions are provided that permit state bodies to hold closed meetings when considering matters related to the following:

Board Position:

\_\_\_\_\_ S      \_\_\_\_\_ NA      \_\_\_\_\_ NP  
\_\_\_\_\_ SA      \_\_\_\_\_ O      \_\_\_\_\_ NAR  
\_\_\_\_\_ N      \_\_\_\_\_ OUA       X  PENDING

Department Director

Date

Gerald H. Goldberg

3/9/05

- Employment evaluations, appointments, or dismissals,
- Administering examinations for licensing purposes,
- Conferring honorary degrees,
- Meeting with a negotiator for the sale, lease, exchange, or purchase of real property,
- Discussions of eminent domain proceedings,
- Considerations of investment decisions,
- Discussions of claims for tort liabilities,
- Conferring with or receiving advice from legal counsel regarding pending litigation, and
- Matters that would constitute an invasion of privacy of a licensee or be in violation of state disclosure laws.

In addition, until January 1, 2006, a state body is permitted to hold a closed meeting to consider matters about a threat or potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment of the state body. When a closed meeting is held for these reasons, notice must be provided to the Legislative Analyst that a closed session was held, the general reason or reasons for the closed session, the general nature of the matters considered, and whether any action was taken in closed session.

The three-member Franchise Tax Board is specifically authorized to hold closed meetings for the purpose of discussion of confidential tax returns or information that is prohibited by law from disclosure or for considering matters pertaining to the appointment or removal of the Executive Officer of the Franchise Tax Board.

### THIS BILL

This bill would eliminate the January 1, 2006, expiration date with respect to closed meetings for threats of criminal or terrorist activity, thus those provisions would become permanent.

### IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs and operations.

### **LEGISLATIVE HISTORY**

AB 1209 (Stats.2004, Ch. 8) was enacted to preclude public disclosure of certain documents gathered or developed by or for a state or local agency that identifies potential targets of terrorist or other criminal acts. This bill also precludes public disclosure of customer lists by an alarm or security company to state or local police agencies.

AB 2072 (Stats. 2002, Ch. 1113) enacted the provisions that permit state bodies to hold closed door sessions on matters posing a threat or potential threat of criminal or terrorist activities against the personnel, property, buildings, facilities, or equipment of the state body.

### **OTHER STATES' INFORMATION**

The laws of the states of *Illinois*, *Massachusetts*, *Minnesota*, *Michigan*, and *New York* were reviewed due to their similarities to California's economy and public meeting laws. *Illinois*, *Michigan*, and *Minnesota* have specific exceptions for closed meetings when considering matters related to public safety, addressing severe or eminent threats, and certain security issues. *Florida*, *New York*, and *Massachusetts* have far more limited exceptions related primarily for matters concerning personnel issues of the state body.

**FISCAL IMPACT**

This bill would not significantly impact the department's costs.

**ECONOMIC IMPACT**

This bill would have no identifiable revenue impact under the Personal Income Tax and Corporation Tax Laws.

**LEGISLATIVE STAFF CONTACT**

Deborah Barrett  
Franchise Tax Board  
845-4301  
[deborah.barrett@ftb.ca.gov](mailto:deborah.barrett@ftb.ca.gov)

Brian Putler  
Franchise Tax Board  
845-6333  
[brian.putler@ftb.ca.gov](mailto:brian.putler@ftb.ca.gov)